

Message Text

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ACTION NASA-02

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FM AMEMBASSY TANANARIVE

TO SECSTATE WASHDC 7287

C O N F I D E N T I A L TANANARIVE 0924

E.O. 11652: GDS

TAGS: TSPA, MA

SUBJECT: TAXES ON NASA FUEL

REF: STATE 112462

1. ACTING NASA STATION DIRECTOR STOMPF ACCOMPANIED BY EMBASSY ECONOMIC/COMMERCIAL OFFICER CALLED ON DEPUTY DIRECTOR OF THE MALAGASY CUSTOMS SERVICE IN MINISTRY OF FINANCE CONCERNING RECENT ACTION TAKEN BY CUSTOMS TO REQUIRE NASA TO PAY TAXES ON ALL PETROLEUM PRODUCTS ON APRIL 23. DEPUTY DIRECTOR OF CUSTOMS WAS WELL-PREPARED FOR MEETING, WITH COPY OF EXISTING NASA STATION AGREEMENT ON HIS DESK. HE READ OFF ARTICLE 5 OF AGREEMENT (ON TAX EXEMPTIONS) POINTING OUT THAT ACCORDING TO THE LANGUAGE OF THIS ARTICLE, ONLY "SCIENTIFIC OR TECHNICAL MATERIALS, EQUIPMENT AND SUPPLIES" ARE TO BE EXEMPT FROM TAXATION OR DUTY. PETROLEUM PRODUCTS USED BY NASA ARE NOWHERE SPECIFIED AS BEING EXEMPT FROM TAXES, HE SAID, NOR CAN GASOLINE OR FUEL OIL BE CONSIDERED "SCIENTIFIC OR TECHNICAL EQUIPMENT." ACCORDINGLY, UNDER TERMS OF AGREEMENT MALAGASY GOVERNMENT CLEARLY HAS RIGHT TO TAX PETROLEUM PRODUCTS USED BY STATION, AND HAS DECIDED TO ENFORCE THIS RIGHT OWING TO FINANCIAL NEED.

2. STOMPF POINTED OUT THAT NASA HAD ENJOYED EXEMPTION FROM PETROLEUM TAXES FROM ITS BEGINNING IN MADAGASCAR UNTIL NOW AS CUSTOMARY PART OF ITS OPERATING AGREEMENT. CUSTOMS
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DIRECTOR SAID THAT FACT THAT MALAGASY HAD NOT ENFORCED THEIR RIGHT TO COLLECT TAX ON FUEL USED BY NASA IN PAST, WHETHER BY OVERSIGHT OR WHATEVER, MADE NO DIFFERENCE. UNDER SPECIFIC TERMS OF AGREEMENT, GOVERNMENT CLEARLY HAS RIGHT

TO DO SO, AND HAS DECIDED TO ENFORCE IT. HE SAID THIS WAS BASIC POLICY DECISION OF THE "MINISTRY OF FINANCE," NOT JUST HIS OFFICE.

3. EMBOFF OBSERVED THAT NEW NASA STATION AGREEMENT IS BEING NEGOTIATED WITH MALAGASY GOVERNMENT, AND ASKED THAT MINISTRY OF FINANCE AT LEAST DELAY ANY ACTION ON PETROLEUM TAX QUESTION UNTIL NEW AGREEMENT IS CONCLUDED. WE ADDED WE ARE ALSO CURRENTLY IN PROCESS OF NEGOTIATING AGREEMENT WITH PTT TO TURN OPERATION OF STATION OVER TO THAT AGENCY UNDER CONTRACT WITHIN NEXT TWO YEARS, AND ASKED WHETHER PTT, AS PROSPECTIVE OPERATOR OF STATION, WOULD NOT BE ENTITLED TO EXEMPTION FROM PETROLEUM TAXES. CUSTOMS OFFICIAL REPLIED THAT IF NASA IS SPECIFICALLY EXEMPTED FROM PAYMENT OF PETROLEUM TAXES IN NEW STATION AGREEMENT, MINISTRY OF FINANCE WOULD RESPECT THAT AGREEMENT, BUT IN MEANTIME IT CAN ONLY OPERATE ON BASIS OF SPECIFIC LANGUAGE OF OLD AGREEMENT, WHICH DOES NOT PROVIDE FOR ANY EXEMPTION FROM THESE TAXES. AS FOR PTT EVENTUALLY OPERATING THE STATION, HE SAID THAT MOST AGENCIES OF MALAGASY GOVERNMENT MUST PAY THE PETROLEUM TAXES, AND UNDER CURRENT GOVERNMENT REGULATIONS PTT WOULD NOT BE EXEMPT FROM PAYING TAXES ON FUEL IT MIGHT USE IN OPERATION OF STATION.

4. EMBASSY COMMENT: EMBASSY AND NASA STADIR SEE NO WAY TO FURTHER APPEAL GOMR DECISION TO IMPOSE FUEL TAX. MINISTRY OF FINANCE IS SEEKING REVENUE IT SORELY NEEDS AND CAN BE EXPECTED TO IMPOSE OTHER TAXES IF IT DISCOVERS OTHER SIGNIFICANT AREAS WHERE THEY CAN BE APPLIED WITHOUT VIOLATING LETTER OF AGREEMENT. EMBASSY BELIEVES GOMR WILL CONTINUE TO SEEK TO OBTAIN ALL IT CAN WITHIN SCOPE OF EXISTING AGREEMENT. HOWEVER, THIS IS APPARENTLY NOT POLITICAL CAMPAIGN AGAINST NASA BUT BASED ON FINANCIAL NEEDS OF GOMR. DISTINCTION IS IMPORTANT BECAUSE POLITICALLY INSPIRED CAMPAIGN WOULD MORE LIKELY HAVE OBJECTIVE OF DRIVING NASA OUT OF COUNTRY AND PROBABLY WOULD BE ACCOMPANIED BY VARIOUS FORMS OF HARASSMENT. ECONOMIC INSPIRATION FOR GOMR MOVE ON FUEL TAX LENDS ITSELF CONFIDENTIAL

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TO MORE REASONABLE NEGOTIATION, AND SO FAR IS SINGLE MOVE AND NOT GENERAL CAMPAIGN TO EXTRACT MORE MONEY FROM STATION.

5. COMMENTS ON NEGOTIATING SERIES OF CONTRACTS PER REFTEL WILL BE FORWARDED IN SEPTTEL.
ELFERS

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Message Attributes

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